

Commonwealth of Kentucky

Model Protocol For Local Multidisciplinary Teams On Child Sexual Abuse



Kentucky Multidisciplinary Commission
on Child Sexual Abuse

Adopted July, 2015

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Model Protocol

for

Local Multidisciplinary Teams

on

Child Sexual Abuse

Adopted by the

Kentucky Multidisciplinary

Commission on Child Sexual Abuse

pursuant to KRS 431.660(1)(a)

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PURPOSE OF A MODEL PROTOCOL FOR MULTIDISCIPLINARY TEAMS

The document that follows is intended to serve as a “model” or “best practice” standard for communities to use in drafting a protocol and building their own multidisciplinary team. Use of the term “model” is not intended to imply that every community’s final protocol should exactly mirror the recommendations on the following pages.

In addition to the model protocol below, the Kentucky Multidisciplinary Commission on Child Sexual Abuse (“the Commission”) has developed a template to be used by each team in Kentucky. The model protocol template outlines the language that is required for each multidisciplinary team. A team may choose to add sections to their protocol, subject to approval by the Commission, however nothing from the template may be deleted.

Local protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse (KRS 431.600 (2)). Local multidisciplinary teams shall review their protocol at least every three years. This approval process and review requirement is outlined in the orientation manual.

GOALS AND OBJECTIVES OF MULTIDISCIPLINARY TEAMS

While each multidisciplinary team will be structured somewhat differently, several key objectives will underlie their operation. These objectives are designed to meet the two primary goals: (1) safety and protection for child victims of sexual abuse and (2) accountability of the child sexual abuse service system.

GOAL: Safety and Protection for Child Victims of Sexual Abuse

- To ensure the immediate safety of the child victim and to minimize further trauma or systemic re-victimization;
- To protect the privacy rights of the child and the child's family (KRS Chapter 421);
- To minimize the number of victim interviews and to ensure interagency collaboration; and
- To facilitate access to medical and behavioral/mental health intervention to promote successful healing.

GOAL: Accountability of the Child Sexual Abuse Service System

- To increase the quality of sexual abuse investigations, prosecution and victim services and eliminate the duplication of efforts;
- To increase successful prosecution and offender accountability through multidisciplinary collaboration;
- To ensure that each case of child sexual abuse is appropriately reviewed;
- To hold all professionals involved in child sexual abuse cases to the highest standard of professional conduct;
- To identify and improve system and local resource deficiencies;
- To promote child victim and family voice;
- To collect and maintain accurate information regarding the investigation and prosecution of child sexual abuse cases;
- To implement trauma informed care practices and principles; and
- To increase and maintain active participation and consistent attendance of each agency at multidisciplinary team meetings.

Duties and Powers of the Kentucky Multidisciplinary Commission on Child Sex Abuse:

- ⇒ Prepare and issue a model protocol for local multidisciplinary teams regarding investigation and prosecution of child sexual abuse and the role of children's advocacy centers on multidisciplinary teams.
- ⇒ Review and approve protocols prepared by local multidisciplinary teams.
- ⇒ Advise local multidisciplinary teams on the investigation and prosecution of child sexual abuse.
- ⇒ Receive data on child sexual abuse cases collected by the Prosecutors Advisory Council and issue annual reports.
- ⇒ Collect data on the operation of local multidisciplinary teams.
- ⇒ Seek funding to support special projects relating to the operation of local multidisciplinary teams.
- ⇒ Receive and review complaints regarding local multidisciplinary teams, and make appropriate recommendations.
- ⇒ Recommend to the Governor, Legislative Research Commission, and Supreme Court changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate effective intervention of child sexual abuse cases and the investigation and prosecution of perpetrators of child sexual abuse, and which may improve the opportunity for victims of child sexual abuse to receive treatment.

ROLES AND KEY RESPONSIBILITIES OF MULTIDISCIPLINARY TEAM MEMBERS

A multidisciplinary team member is defined as:

- A professional employed by an agency that has signed the multidisciplinary team protocol in effect for the multidisciplinary team; and
- A professional who is actively involved in the child sexual abuse service system.

One of the strengths of multidisciplinary teams is the divergent perspective and unique expertise that each team member brings to the group as a whole. The sections below identify the individualized responsibilities and functions of multidisciplinary team members. In addition to the individual responsibilities, several key responsibilities are common to all team members.

Key Responsibilities Common to All Team Members

- Operate in the best interest of the child;
- Educate team members on the role of each discipline represented;
- Attend team meetings and actively participate in the team's activities;
- Work and communicate in a cooperative manner with other members on the multidisciplinary team, while maintaining the privacy interests of the child and the confidentiality of the case review process;
- Report any significant developments in the case to appropriate agencies (law enforcement agencies, Department for Community Based Services, prosecutors) and the multidisciplinary team (KRS 620.030); and
- Ensure privacy interests of the child will be protected during the review process.

I. PROSECUTING ATTORNEYS

Commonwealth's Attorney

The Commonwealth's attorney prosecutes all felony crimes (those offenses carrying a penalty of one year or more) committed by persons eighteen years of age or older, which occur in the judicial circuit of that prosecutor. In some specific instances, the Commonwealth's attorney may also prosecute juveniles charged with felony offenses. The Commonwealth's attorney is also responsible for presenting evidence of such crimes to the grand jury (KRS 15.725).

County Attorney

The county attorney prosecutes all violations of criminal laws which occur within the county and that are (except KRS Chapter 131) within the jurisdiction of the district court including all proceedings held pursuant to petitions filed under KRS Chapter 610. These cases include felony crimes through preliminary hearing, misdemeanor crimes, crimes committed by juveniles, and dependency, neglect and abuse cases (KRS 15.725; KRS 610).

Specific responsibilities of prosecuting attorneys relating to child sexual abuse cases include:

- Commonwealth's and county attorneys shall assist any multidisciplinary team established within their judicial circuit or county. Assistance may include, but is not limited to, facilitating case review and providing information regarding evidentiary issues, trial procedure, case status and disposition (KRS 15.727).
- Commonwealth's and county attorneys have decision-making authority regarding the disposition of criminal cases. The decision to proceed by trial or guilty plea, to amend or to dismiss charges, to make sentencing recommendations as to term of years, concurrent or consecutive sentencing, or probation, shall be made by the prosecuting attorney. The prosecutor should consider input from the team in making these decisions, and the victim and team should be consulted by the prosecuting attorney on the disposition of the case (KRS 421.500(6)).
- Regarding cases under the Unified Juvenile Code, KRS Chapter 600 *et seq.*, the county attorney has a critical role in the handling of dependency, neglect and abuse cases in juvenile court which are a primary source of protection for sexually abused children. County attorneys should establish procedures for the exchange of information on these cases with the Department for Community Based Services. These procedures may be adapted to the size of the county or circuit and the resulting caseload and may include: asking for written reports from the Department for Community Based Services workers and convening meetings on a regularly scheduled basis or just prior to the hearing of a dependency case.
- Commonwealth's and county attorneys shall provide any data requested by the Prosecutors Advisory Council (KRS 15.706(2)).



II. DEPARTMENT FOR COMMUNITY BASED SERVICES

The responsibilities of DCBS workers are outlined in both the KRS and the internal policies of the Cabinet for Health and Family Services. DCBS shall participate, along with law enforcement in the joint investigation of all child sexual abuse cases (KRS 431.600).

Specific responsibilities of DCBS relating to child sexual abuse cases include:

- DCBS shall immediately investigate all reports of child abuse or neglect in which the alleged perpetrator was in a caretaking role and all reports alleging a child is a victim of human trafficking. Within 72 hours of receipt of the allegation, DCBS shall make a written report to the prosecutor and local law enforcement (KRS 620.040).
- DCBS shall serve as lead investigators in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse.
- DCBS shall assist law enforcement in investigations of noncustodial abuse. (KRS 620.040(3)).
- The cabinet shall participate in all investigations of reported or suspected sexual abuse or human trafficking of a child. (KRS 620.040(3)).
- DCBS shall conduct central registry checks maintained by DCBS to determine if there has been prior child protective services involvement with the family, child victim or the perpetrator.
- DCBS shall adhere to KRS 620.040(6), which states that forensic interviews of child victims shall be conducted, when at all practicable, at the Children's Advocacy Center in joint cooperation with law enforcement.
- DCBS shall participate in all interviews in child sexual abuse investigations (KRS 431.600(1)).
- During the course of the child abuse and neglect investigation, DCBS will assess the validity of the allegations and any risk to the child. In most cases, the victim, the child's caretaker, and the alleged perpetrator will be notified of the results of the investigation.
- In cases where the child is alleged to be at risk of further dependency, neglect or abuse, protective services shall be initiated. DCBS staff provides or make referrals for the following types of services or supports: parenting classes; mental health assessment or treatment; treatment or support groups for victims, perpetrators, and non-offending parents; victim advocacy; or other services warranted by the specifics of the case.
- In cases where the child is determined to be at imminent risk of serious physical injury or sexual abuse, DCBS shall initiate a petition for emergency custody as prescribed in KRS 620.060. DCBS cannot remove a child from the home without order of the court. In addition to seeking removal of the child victim, DCBS may seek less restrictive dispositional alternatives such as court ordered treatment, removal of the perpetrator, or other alternatives.
- The Adoption and Safe Families Act requires DCBS to finalize a permanency plan for each child in out of home care. Unless there are parental circumstances which negate reasonable efforts to reunify the family (KRS 610.127), the goal will be reunification. Periodic administrative and court reviews will be conducted to determine the future status of the child (KRS 610.125(1)). After 12 months in out of home care, the court will conduct a permanency review which will address: whether the child should be returned to the parents (if parental rights have not been terminated), whether the child should be placed for adoption, whether the child should be placed with a permanent custodian, and whether the Cabinet has documented a compelling reason that it is in the best interest of the child to be placed in another planned permanent living arrangement (KRS 610.125(1)).
- The cabinet upon request shall receive from any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, KRS 620.040, and KRS 620.050 (KRS 620.030(5)).

III. LAW ENFORCEMENT OFFICERS AND KENTUCKY STATE POLICE

The duties of the **Kentucky State Police** are detailed in KRS Chapter 16. Troopers and detectives investigate alleged criminal conduct committed within the Commonwealth.

The duties of the **Sheriff** are detailed in KRS Chapter 70. The sheriff and the sheriff's deputies investigate criminal acts and participate in courtroom processes within a county jurisdiction. Sheriffs are also involved in the service of warrants and other court orders, including emergency protective orders and domestic violence orders provided for within KRS Chapter 403 which may be filed on behalf of a child in need of protection.

The duties of the **City Police Department** are detailed in KRS Chapter 95. The city police department investigates criminal acts within a municipality, while the jurisdiction of county police relates to crimes committed within the county borders.

Specific responsibilities of law enforcement officers relating to child sexual abuse cases include:

- Conduct investigations for criminal prosecution, including evidence gathering and criminal case presentation to prosecutors;
- In the course of the investigation, conduct joint investigation with DCBS and interview parents (non-offending), alleged offenders, and any witnesses to the offense(s). Interviewing the victim shall be done in compliance with KRS 620.040, and always addressing what is in the best interest of the victim. Investigations, including interviews, shall be coordinated with DCBS in compliance with KRS 431.600. This does not imply that an officer or detective may not interview a child victim without the presence of a social worker, but every effort should be made to conduct interviews at the Children's Advocacy Center in order to reduce the number of times a child is interviewed;
- Obtain and/or serve warrants, subpoenas, and court orders (including emergency protective orders sought on behalf of a child sexual abuse victim);
- Make referrals to behavioral/mental health professionals, medical professionals or victim advocates as appropriate;
- If there exists reasonable grounds for a law enforcement officer to believe that a child is in danger of being sexually abused and the persons exercising custodial control cannot or will not protect the child, the officer may take the child into protective custody without the consent of the parent. The officer or person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order (KRS 620.040 (5)(c)).
- The Cabinet for Health and Family Services, upon request, shall receive from any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, KRS 620.040, and KRS 620.050 (KRS 620.030(5)).



IV. CHILDREN'S ADVOCACY CENTERS

Children's Advocacy Centers (CACs) are designed to promote the well-being of children while facilitating the most effective investigation and prosecution of child sexual abuse cases. CACs create a trauma informed and child friendly environment within which interviews, examinations, therapy and other advocacy services can be conducted. In addition to focusing on the best interest of children, CACs also provide an opportunity to give support to professionals who dedicate themselves to the protection of children, particularly social service workers, advocates, law enforcement officers and prosecutors. CACs are defined in KRS 620.020.

Specific responsibilities of CACs relating to child sexual abuse cases include:

- Provide a single, child friendly location where all services provided to children during the investigation process can be offered;
- Provide a location, including a child friendly room with recording equipment and the ability, for law enforcement and DCBS staff to observe interviews with children alleged to have been sexually abused;
- Provide forensic interview services defined as a structured conversation with a child designed to elicit accurate accounts of events. The CAC forensic interviewer is a master's level mental health professional with special expertise in forensic interviews;
- Assume primary responsibility for the provision of comprehensive child sexual abuse medical examinations and mental health screenings for a child to assess the child's physical well-being and to document any evidence of sexual or other abuse. Medical examinations provided by CACs are provided on-site or through formal linkage agreements and in accordance with 920 KAR 2:040. Medical examination services may be provided by a sexual assault nurse examiner certified in accordance with KRS Chapter 314.011, if the child is fourteen years or older and requires the completion of an evidence collection kit;
- Provide trauma informed advocacy services to assist child victims and their non-offending caregivers which may include: accompaniment to court, case management, information and referral services;
- Provide trauma informed mental health services on-site or through formal linkage agreements with qualified providers in the community;
- Provide clinical services which may include: mental health screening, mental health evaluation, individual therapy services, family therapy, and group therapy for children and non-offending caretakers and families;
- Attend, participate and to the extent possible, staff multidisciplinary team meetings in the counties that the regional CAC serves and has an approved protocol in place;
- Provide consultation and educational services;
- Provide technical assistance and consultation resources to criminal justice and human service professionals in the region in which the center is located;
- Partner with and provide assistance to investigating agencies to ensure all professionals who conduct forensic interviews at CACs with children on a regular basis have access to forensic interview training and regularly participate in a structured, forensic peer review program; and
- Survey MDT members annually utilizing the National Children's Alliance Outcome Measurement System Team Satisfaction Survey in order to elicit team feedback. The results of that survey shall be included with the annual report submitted to the Kentucky Multidisciplinary Commission on Child Sexual Abuse.



Conducting Forensic Interviews at the Children's Advocacy Center:

Law enforcement and the Department for Community Based Services shall make every effort to schedule forensic interviews with alleged child victims of sexual abuse at the Children's Advocacy Center. In some instances of imminent danger or risk of further abuse, it may be necessary for investigators to conduct interviews or minimal facts interviews with alleged child victims. Investigators will jointly decide who will conduct the interviews with the non-offending family members in order to determine the child's current risk of harm. Upon receiving a child sexual abuse report by Department for Community Based Services and Law Enforcement to determine if the child/children are safe, investigators will make face-to-face contact with child victims within one hour or as soon as possible depending upon alleged perpetrators access to child victim. To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at the Children's Advocacy Center by the multidisciplinary team (law enforcement, Department for Community Based Service worker, Prosecutor and CAC forensic interviewer) in accordance with KRS 620.040(6).

The forensic interview is utilized to gather and coordinate information to avoid duplication of services and to determine what the child may have experienced. The Forensic interview is separate from mental health treatment which is a clinical process designed to assess and mitigate the long-term adverse impact of trauma or other diagnosable mental health conditions.

If the child is interviewed at a Children's Advocacy Center, only one forensic interviewer shall conduct a forensic interview with a child. All forensic Interviewers who conduct interviews at a CAC must have received specialized training in conducting forensic interviewing. The training must be recognized by the National Children's Alliance as an approved forensic interviewing course. All forensic interviewers must also regularly participate in a structured, forensic peer review program and obtain a minimum of eight (8) hours of continuing education (CEUs) every two years.

The multidisciplinary team investigating the allegations, including the CAC interviewer and the CAC victim advocate, will meet to review the reports prior to the completion of the interview and determine who will conduct the interview. Interviewing aids (anatomical drawings, Play-doh, anatomically correct dolls and other interviewing aids) may be used by the forensic interviewer as needed. If there is a need to introduce evidence within the forensic interview, discussion will occur with the MDT members present for the interview on the information that will be shared and ensure that best practice will be used to introduce the evidence. If a child requires subsequent interviews, the MDT will determine the criteria and process of when to conduct the additional interview(s).

The MDT and CAC will identify and determine a plan to address any cultural or linguistic issues that may affect the forensic interview and overall delivery of services. Upon intake, the CAC will assist investigators to determine if the child and/or family are in need of an interpreter. If needed, the CAC will assist in the coordination and provision of professional interpretation services at no cost to the child's family. At no time will the CAC utilize children or family members to translate. Interpreters used during the completion of forensic interviews must be recognized by the local court system.

Forensic interviews may only be witnessed by DCBS staff, law enforcement, prosecutors and CAC staff who are members of a multidisciplinary team and who are actively participating in the investigation of the case involving the child. Interviewers shall be advised as to who is witnessing the interview and all professionals that observed will be noted in the child's file. Student interns under the direct supervision of one of the above professionals may witness a forensic interview in the presence of their supervisor. Witnessing forensic interviews shall be limited to observation from outside the room where the child is located. All professionals and students who witness the forensic interview shall sign a confidentiality form provided by the CAC. Signed confidentiality forms shall be retained in the child's client file. Forensic interviewers may wear an ear microphone during the interview through which witnesses may communicate questions to the interviewer.

All interviews conducted at a CAC will be recorded. As per KRS 620.050(10), an interview of a child recorded at a children's advocacy center shall not be duplicated except that the Commonwealth's or county attorney prosecuting the case may:

- Make and retain one (1) copy of the interview; and
- Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

The defendant's counsel shall file the copy with the court clerk at the close of the case. Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed (KRS 620.050(10)).

Teams will outline who will maintain and track the recorded interview. With permission of the Commonwealth's and/or county attorney, the law enforcement investigator may sign out one (1) original copy of the recorded interview from the CAC and is responsible for maintaining that recorded copy of the interview until it is provided to prosecution. If the law enforcement investigator elects not to sign out the recorded interview, the CAC will maintain any original copies of the recorded interview at the Center accordingly. The CAC will complete and file the sign-out form in the client's file.

The CAC will coordinate and make available the viewing of the recorded interview at the CAC for assigned investigative team members, as needed, including DCBS staff and federal investigators and prosecutors in a timely manner.

During the forensic interview process, the CAC advocate will assist in the coordination of services and provide child and family information on Crime Victim Compensation, the Crime Victim Bill of Rights and the role as well as the contact information of advocates housed within the offices of the Commonwealth's and/or county attorney.

V. MEDICAL PROFESSIONALS

Specialized child sexual abuse medical evaluation and treatment services are routinely made available for every child sexual abuse victim (regardless of the ability to pay) and are coordinated by the multidisciplinary team.

The CAC will assume primary responsibility for the provision of consultation about medical services to team members and for the provision of comprehensive child sexual abuse medical examinations and mental health screenings for a child to assess the child's physical wellbeing and to document any evidence of sexual or other abuse so as to avoid multiple medical examinations.

Unless the team has identified/outlined another provider of specialized medical examinations in the community, investigators will contact the CAC first for consultation and/or to schedule a specialized medical examination. This communication is critical to avoid multiple medical examinations.

Medical professionals may include physicians licensed pursuant to KRS 311.550, nurses licensed pursuant to KRS 314.011 or other health care providers licensed within Kentucky statute. KRS 620.040(5)(b) provides authority to physicians and hospital administrators to place a child under a 72-hour hold if necessary for protection of the child. KRS 620.050 provides immunity from criminal or civil liability for performance within the scope of duties.

The purpose of the medical examination is to:

- Help ensure the health, safety, and well-being of the child;
- Diagnose, document and address medical conditions resulting from abuse;
- Differentiate medical findings that are indicative of abuse from those which may be explained by other medical conditions;

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- Diagnose, document and address medical conditions unrelated to abuse;
 - Assess the child for any developmental, emotional, or behavioral problems needing further evaluation and treatment and make referrals as necessary; and
 - Reassure and educate the child and family.

CACs that cannot provide a medical examination in emergency situations will assist investigators with the coordination of an examination at the child's primary care physician's office or local emergency room.

Reasons for emergency evaluation:

- Medical intervention is needed emergently to assure the health and safety of the child;
- The alleged assault may have occurred within the previous 96 hours and the transfer of trace evidence may have occurred which will be collected for later forensic analysis;
- The need for emergency contraception;
- The need for post-exposure prophylaxis for sexually transmitted infections including HIV;
- The child complains of pain in the genital or anal area;
- There is evidence or complaint of anogenital bleeding or injury; and
- The child is experiencing significant behavioral or emotional problems and needs evaluation for possible suicidal ideation/plan or poses a threat to others.

Medical examinations conducted at the CAC are thoroughly documented in medical records that are maintained at the CAC. Medical documentation includes a medical history provided to physician by the forensic interviewer or MDT investigators. The CAC will provide the documented medical findings to MDT investigators and/or prosecutor in a timely manner.

Specific responsibilities of medical professionals relating to child sexual abuse cases include:

- Provide a specialized medical evaluation to assess whether findings consistent with the presentation of child sexual abuse or other forms of abuse are present. The examination may include, but is not limited to use of a colposcope;
- Diagnose and treat child victims of sexual abuse as indicated, specifically including bodily injury, sexually transmitted diseases or other outcomes of the abuse;
- Answer medical questions which arise during case discussions by team members including explanation and interpretation of findings in the medical report;
- Provide expert testimony for the court;
- Provide screening and referral for other medical services;
- Provide consultation regarding the significance of specific past medical data to the current investigation, including the credibility of previous medical examinations;
- Serve as a resource to team for current prevailing medical literature relating to child sexual abuse, most widely accepted assessment tools or practices and best practices for age specific interventions;
- Facilitate the development of medical resources for child sexual abuse cases in the community; and
- Participate in a structured medical peer review.

VI. BEHAVIORAL/MENTAL HEALTH PROFESSIONALS

Specialized trauma-focused behavioral/mental health services designed to meet the unique needs of the children and non-offending caregivers are routinely made available as part of the multidisciplinary team response.

A behavioral/mental health professional is a practitioner who is licensed by their respective Board in the Commonwealth of Kentucky and who is supervised by a licensed practitioner to render behavioral/mental health services. Providers who provide assessment and/or treatment to victims of child sexual abuse will receive initial and ongoing training on children, trauma and child maltreatment.

Specific responsibilities of behavioral/ mental health professionals relating to child sexual abuse cases include:

- Provide appropriate trauma informed evidence based assessment of the behavioral health (mental health and substance related needs) of the child victim or non-offending parents;
- Assist in determining the most appropriate behavioral health services for all family members;
- Provide crisis intervention services to assist with the emotional crises of the child or family, particularly in instances of apparent suicide or homicide risk;
- Provide trauma informed evidence based therapeutic intervention to children and families during and subsequent to the investigation and prosecution process;
- Maintain confidentiality except as provided by law (KRS 209.030, KRS 620.030, KRS 202A.400, KRE 506, KRE 507, and KRE 509);
- Assist DCBS or law enforcement in determining the risk to a child. This role is limited to consultation, as DCBS retains the statutory responsibility to substantiate child sexual abuse;
- Identify potential mental health issues of family members or non-offending caregivers which may impact the course of the investigation or the welfare of the child;
- Provide specific support and help to the prosecutor (or the prosecutor's victim advocate) and the guardian ad litem in preparing child victims and their families for court related meetings or proceedings;
- Provide expert testimony for the court;
- Assist in the preparation of Victim Impact Statements;
- Provide specialized consultation to professionals involved in the investigation with a goal toward providing insight into the impact of the victimization on the child and the parent, and interpreting behaviors within the context of trauma response;
- Serve as a resource to the team for current prevailing literature related to child sexual abuse and its impact on children, most widely accepted assessment techniques, and best practices for age specific interventions; and
- Facilitate the development of long-term treatment resources in the community.

VII. VICTIM ADVOCATES

Victims support and advocacy services are routinely made available to all child victims and non-offending family members as part of the multidisciplinary response.

Victim advocates are important; not only for the direct support and education services which they provide to victims and their families, but also because they play a key role in linking professionals and agencies together, therefore increasing the accountability of the service system. Victim advocates should not duplicate services provided by other agencies (e.g.: DCBS workers providing case work services or mental health professionals providing treatment services), but should fill in gaps and link resources together for each child and family. KRS 15.760 and 69.350 (relating to victim advocates hired by Commonwealth's attorneys and county attorneys, respectively) and KRS 421.570 describe the position of victim advocate. There are statutory training requirements, duties and restrictions on activities for victim advocates. The victim advocate assists crime victims, (as defined in KRS 421.500) with accessing rights afforded to them by the Crime Victim Bill of Rights (KRS 421.500-575) and other applicable statutory provisions.

Specific responsibilities of victim advocates relating to child sexual abuse cases include:

- Act as a liaison for the child's case, including serving as a link between the child and the agencies with which the child is involved. This may include documenting all services being rendered to the child victim;
- Assist the child and family in accessing available community resources (emergency food, housing, mental health counseling and other resources);
- Provide information and education to the child and family regarding the roles of all professionals involved in the case;
- Provide emotional support services to the child and family, including education regarding what to expect in the investigation and court process and supportive counseling;
- Accompany the child and family members to court proceedings upon their request and assist in preparing children and family members for the court experience;
- Notify children and family members of court dates and other significant developments related to the prosecution of the case;
- Provide information to team members regarding case information gathered in the course of providing direct services and in the course of coordinating services between agencies;
- Assist the child victim or family with the preparation of the Victim Impact Statement;
- Provide the Parole Board with a copy of the Victim Impact Statement, schedule and accompany the child victim or family, at their request, to the victim parole hearing;
- Assist the family in accessing appropriate compensation from the Crime Victims Compensation Board; and
- Advocate for the rights of the child with the agency/agencies that are involved or should be involved in the case as well as with the prosecutor and court system.



Kentucky Crime Victim Bill of Rights Handout

<http://ag.ky.gov/criminal/victims/Documents/2009victimsbor.pdf>

VIII. EDUCATION PROFESSIONALS

Education professionals, for the purpose of this protocol, include school counselors certified pursuant to KRS 161.010-161.126, Family Resource and Youth Services Centers (KRS 156.4977), teachers, administrators, or other school personnel. The education professional serves as a liaison between the team and individual teachers or counselors, notifying the teacher or counselor when confidentially seeking his/her input would be valuable to the case review process. The team should reach a consensus regarding when the contacting of individual teachers would benefit the investigation. These professionals help students reduce personal barriers in the learning process through academic and emotional supports.

Specific responsibilities of education professionals relating to child sexual abuse cases include:

- Serve as a consultant to the team regarding school policies and procedures;
- Notify individual counselors, teachers, or other education professionals, as necessary, when confidentially seeking his/her input would be valuable or needed during the case review;
- Monitor and report to the team the child's academic or educational progress, including a focus on academic, behavioral and emotional domains of the child's functioning;
- Report any additional information or disclosure of abuse by the child victim (KRS 620.030);
- Provide trauma informed crisis intervention and support during times of emotional distress of the child, particularly as the child experiences the court process; and
- Implement strong policies within schools related to who may have access to a child on school grounds or remove a child from the premises of the school in order to protect child victims from harassment, abduction or other inappropriate contact by non-custodial or allegedly abusive parents.



IX. OTHER RELATED PROFESSIONALS

KRS 431.600 and 620.040 recognize that there may be other related professionals whose participation on the multidisciplinary team is necessary and appropriate. Other related professionals should only be included when the professional's input is necessary and appropriate. In determining what is necessary and appropriate, the team should consider the information the other related professional might provide as well as the privacy interests of the child. In those instances where the team decides to include a related professional in the case review process, participation should be limited to the specific case.

OPERATION OF THE MULTIDISCIPLINARY TEAM

A representative of one agency should be designated as facilitator for meetings, either on a meeting-by-meeting basis or for a designated period of time. It is the preferred practice that a Commonwealth's attorney or their assistant should serve as the facilitator. The CAC should provide staffing for the team to the extent practicable (KRS 620.040(7)(i)).

Frequency of Meetings:

Teams should assess for and outline a plan to meet in order to provide adequate time to review and discuss all cases on the agenda. KRS 620.040(7)(d) requires teams to “hold regularly scheduled meetings if new reports of sexual abuse or child human trafficking cases involving commercial sexual activity are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.” The expectation is that teams will meet monthly.

Location of Meetings:

Team meetings should be held in a location that is generally convenient to team members and meets the needs of the team. In order to protect the privacy interests of the victims and to maintain the confidentiality of the case review process, the case review portion of team meetings should be held in an area that is private, not open to the public and that ensures that non-team members will not be privy to confidential matters.

Open and Closed Meetings:

KRS Chapter 61, Kentucky's Open Meetings Law, may apply to team meetings and compliance therewith may be necessary before the team may meet in a closed session for the purpose of case review and staffing. Typically, team meetings will consist of both public and private portions of the meeting. If the mission of the multidisciplinary team is broad, much of the meeting (or a separate meeting) will be open to the public. The agenda for the public portion of the meeting may include community education and awareness or policy recommendations for the community. Case review and staffing of cases should be conducted in the closed portion of the meeting attended by team members from agencies represented by signature on the relevant MDT protocol. These team members should determine whether additional team members and related professionals attend the entire case review or are only present for specific cases.

CASE REVIEW FUNCTION OF THE MULTIDISCIPLINARY TEAM

Objectives of Case Review

The objectives of the case review process include the following:

- To promote a thorough understanding of case issues and to monitor the progress of investigation and intervention, so as to ensure the most timely and effective system response possible;
- To facilitate efficient gathering and sharing of information and communication between team members;
- To develop joint solutions for problems by allowing team members a forum to voice opinions;
- To coordinate intervention and assess services; and
- To facilitate efficient and appropriate disposition of cases.

Who May Attend the Case Review?

Only team members may attend the entire case review process. Other professionals involved in a specific case may be invited to attend the relevant portion of a team meeting where the specific case is being reviewed. An invitation for other professionals to attend a meeting is provided at the discretion of the team.

If a team member has a personal or professional relationship outside of the investigation, that individual is responsible to inform the other team members of the conflict. The team should then determine the next course of action.

Which Cases Are Reviewed?

- Reported or suspected child sexual abuse cases (KRS 431.600);
- Child human trafficking cases (KRS 620.040 7(c)); and
- Teams may also include the review of cases involving the serious physical injury or death of a child in their local protocol.

How Often Are Cases Reviewed?

- Cases should be reviewed by the team on a regular basis from the initiating report through all court proceedings (criminal and/or dependency, neglect or abuse).
- Teams must define the process for follow up recommendations to be addressed if a team member is absent. Cases in which there is no court action shall be regularly reviewed until the agencies involved close the case and the team determines that all review objectives have been met.
- Teams shall meet at least monthly. If there are extenuating circumstances as to why meeting monthly is not practical and/or possible, the multidisciplinary team must petition the Commission for review and resolution. (See Appendix)

Who Brings Cases Forward?

All team members are expected to initially present cases before the team for review. For ongoing case review, all team members are expected to provide case updates.

What is the Process for Case Review?

The case review process should include the following:

- Pertinent information needed for presentation of the case:
 - The names of the investigating law enforcement officer(s) and DCBS worker(s);
 - The name and respective ages of victim(s), the name of the alleged perpetrator, and the allegations or criminal charges; and
 - Any other information needed for a meaningful discussion which may include details of the victim's statement, other witness statements, child forensic interview, medical examination, victim and family behavioral health treatment needs, offender's statement, DCBS safety plan and issues, ability of the non-offending parent to support the child, cultural considerations, and status of court proceedings.
- The presentation of newly reported allegations of child sexual abuse or child human trafficking since the last team meeting;
- The review of pending cases and a plan for future action (investigation, prosecution, and therapeutic intervention);
- Information presented during past case review; and
- The input of team members regarding prosecution and sentencing.

MDT Case Review Documentation

The following forms of documentation are recommended.

- (1) **An Agenda** for the open, public portion of the meeting.
- (2) **An Agenda** for the closed, case review portion of the meeting that includes a simple list of all cases scheduled for review and any new or old business.
- (3) **Case Review Form**, which is generally maintained by the prosecutor, and outlines pertinent information needed for case review as well as on-going information from prior case reviews.
- (4) **Case Review Notes** include any notes taken during an MDT meeting.

Team members should discuss all case review documentation with the prosecutor and other team members. Documentation must ensure protection of confidentiality for the victim and issues of discovery should be considered.

Number of Cases Reviewed:

It is the duty of the multidisciplinary team to review all child sexual abuse or child human trafficking cases. If the number of reported cases exceeds capacity for review or there is another extenuating circumstance, the multidisciplinary team must petition the Commission for review and resolution. (See Appendix)

Notification of Cases Being Reviewed:

Each team must develop a process to notify team members of the cases scheduled for review. The notification process must provide confidentiality to the victim and alleged perpetrators whose cases are being reviewed. All notification should be mailed unless specific electronic security measures have been verified.

PRIVILEGED COMMUNICATIONS AND CONFIDENTIALITY

Kentucky law provides for the confidentiality of records and case information that will be reviewed and discussed by the team.

Multidisciplinary team members and anyone else invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, including members of the Kentucky Multidisciplinary Commission on Child Sex Abuse and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information KRS 620.040(7)(f).

Cabinet for Health and Family Services-- KRS 620.050(5)

The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, *shall not be divulged to anyone except:*

- (a) Persons suspected of causing dependency, neglect, or abuse;
- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
- (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
- (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
- (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
- (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;
- (g) Employees or designated agents of a children's advocacy center;
- (h) Those persons so authorized by court order; or
- (i) The external child fatality and near fatality review panel established by KRS 620.055.

Any person requesting disclosure of information pertaining to a client's case record follows the procedures outlined per open records request and disclosure of information. (per HIPPA). This pertains to both custodial and non-custodial parent(s) requesting information regarding their child's case.

Children's Advocacy Centers:

Kentucky law also provides that the records of CACs are confidential. Specifically, KRS 620.050(6)(a) provides that files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a CAC in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

- 1) Staff employed by the Cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
- 2) Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;
- 3) The court and those persons so authorized by a court order; and
- 4) The external child fatality and near fatality review panel.

The statute further provides that nothing shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child (KRS 620.050(7)).

The statute prevents employees or designated agents of a CAC from disclosing information discussed during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information (KRS 620.050(8)). Finally, employees or designated agents of a CAC may confirm to another CAC that a child has been seen for services, and, if an information release has been signed by the guardian of the child, a CAC may disclose relevant information to another CAC (KRS 620.050(9)).

Behavioral/Mental Health:

Statutes related to privileged communication between mental health professionals and clients are noted below. Privileged communication statutes found within the Kentucky Rules of Evidence (KRE) compel mental health team members to acquire releases of information from clients to allow the professional's full participation in team discussions. Consent for information to be released to the team may be included as part of a mental health agency's overall consent for treatment form. Consent for information to be released may also be requested by law enforcement or social services agencies that secure release of information signatures from appropriate parents or guardians. In extreme cases, court orders may be required to allow the professional to release needed information. Finally, privileged communication does not prevent mental health professionals from reporting child abuse to the DCBS as is required by KRS 620.030. This includes the initial report of abuse and any subsequent acts of abuse against the child that are known or suspected by the mental health professional. Privileged communication statutes for mental health professionals include the following:

Counselor - Client Privilege -- KRS 422A.506 (5)(c)

The Kentucky Rules of Evidence provide a privilege for counselors within Kentucky Rule of Evidence (KRE) 506. A counselor is defined to include a school counselor, an alcohol or drug abuse counselor, a sexual assault counselor, a certified marriage and family therapist, a certified art therapist, a certified professional counselor, an individual who provides crisis response services as a member of a community crisis response team, a victim advocate as defined in

KRS 421.570 (except a victim advocate employed by a Commonwealth's or county attorney), or a certified fee-based pastoral counselor.

A communication between a counselor and a client is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor (including members of the client's family). A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling. Exceptions to the counselor client privilege include:

- 1) If the client is asserting his or her physical, mental or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense; or
 - 2) If the judge finds that the substance of the communication is relevant to an essential issue in the case;
 - 3) If the judge finds that there are no available alternate means to obtain the substantial equivalent of the communication; and
 - 4) If the judge finds that the need for the information outweighs the interest protected by the privilege.
- The court may receive evidence *in camera* to make findings under this rule.

Psychotherapist-Client Privilege

The Kentucky Rules of Evidence provide a privilege for psychotherapists within Kentucky Rule of Evidence (KRE) 507. A communication between a psychotherapist and a client is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist (including members of the client's family). A psychotherapist is defined to include a licensed or certified psychologist, licensed clinical social worker, a registered nurse, or licensed physician engaged in the diagnosis or treatment of a mental condition. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his or her mental condition. Exceptions to this privilege include:

- 1) In proceedings to hospitalize the client for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;
- 2) If a judge finds that a client, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, providing that such communications shall be admissible only on issues involving the patients mental condition; or
- 3) If the client is asserting his or her physical, mental or emotional condition as an element of a claim or defense; or, after the clients' death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

¹ Subsequent to the adoption of these court rules, legislation has been passed by the Kentucky General Assembly moving marriage and family therapists and professional counselors to KRE 507 at the time these professions attained licensure, not solely certification

HIPAA Guidelines

Federal HIPAA guidelines may apply to data collection/submission if the entity submitting the data is a "health care provider." If a provider (for example, some CACs or mental health agencies) is submitting data covered by HIPAA, a Business Associate Agreement may need to be put in place ensuring that the information collected cannot be re-disclosed. It is recommended that any agency concerned with meeting HIPAA requirements contact a person with expertise in this area.

DATA COLLECTION BY THE MULTIDISCIPLINARY TEAM & COMMISSION

The Kentucky Multidisciplinary Commission on Child Sexual Abuse will provide all teams with a data collection form that each team will be required to complete on an annual basis.

- The information will be on the operation of local multidisciplinary teams. Including non-identifying case information on cases reviewed by the MDT.
- Annually the KMCCSA will prepare a report on the state of the multidisciplinary teams in the Commonwealth.

This report is separate from the Prosecutors Advisory Council (PAC) report that Commonwealth's and county attorneys are required to complete.

The Prosecutors Advisory Council (PAC) is required to collect data on sexual offenses involving a minor victim including cases of human trafficking of a minor engaged in commercial sexual activity (KRS 15.706). The PAC data collection system is utilized in order to meet this statutory requirement. The data collection process is completed cooperatively through the Office of Victims Advocacy and the Prosecutors Advisory Council, both located within the Office of the Attorney General.

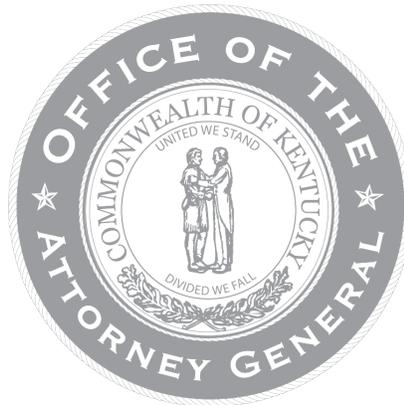
Some of the data that is collected through the PAC data collection system may also be useful for the local multidisciplinary teams on child sexual abuse and their data tracking obligations. Any collaborative use of the tracking system is welcomed but should be coordinated through the local Commonwealth's or county attorney's office and the Office of the Attorney General. For more information on data collection activities, please contact the Office of Victims Advocacy at 800-372-2551 or the Prosecutors Advisory Council at 502-696-5500.



Kentucky Multidisciplinary Commission
on Child Sexual Abuse

For administrative purposes only, the Kentucky Multidisciplinary Commission on Child Sexual Abuse shall be attached to the Office of the Attorney General.

KRS 431.670



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